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Fiscal Note

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| Drafting Number: | LLS 23-0260 | Date: | February 8, 2023 |
| Prime Sponsors: | Sen. Danielson Rep. Garcia | Bill Status: | Senate Education |
| | | Fiscal Analyst: | Josh Abram 303-866-3561 josh.abram@coleg.gov |

Bill Topic: EDUCATION ACCOUNTABILITY ACT

Summary of Fiscal Impact:

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| <input type="checkbox"/> State Revenue | <input type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input checked="" type="checkbox"/> School District |

The bill allows a school district or the state Charter School Institute to seek judicial review or file a civil action against any rule, regulation, or final order of the State Board of Education related to school accreditation and accountability. The bill increases state expenditures.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

The bill allows a school district or the Charter School Institute (CSI) to seek judicial review of, or file a civil action against, any rule, regulation, or final order of the State Board of Education (SBE) related to state, district, or school level accountability, performance planning, reporting of student growth data, the school awards program, and local accountability systems. The bill applies to actions of the SBE occurring on or after July 1, 2021.

Background

Since 2021, the SBE has taken 14 distinct actions related to the accountability clock for a school or district, including once voting to remove the accreditation of a district and initiate the process of district reorganization. In addition, since 2021 the SBE has taken action to:

- approve over 1,800 school and district performance plans annually;
- revised accountability rules three times;
- annually adjust the statewide targets for measures used to determine the levels of attainment of performance indicators; and
- annually approve membership on State Review Panels.

State Expenditures

The bill increases expenditures in the Department of Education (CDE), the Department of Law (DOL), and in the Judicial Department by an indeterminate amount beginning FY 2023-24. Any of the SBE's actions since 2021 can be challenged by districts or the CSI. It is unknown how many of these past actions and what future actions will be challenged.

For any action that is challenged, the SBE will require additional legal services provided by the DOL. Given the uncertainty of future litigation, and the ability of a district or CSI to seek either judicial review or to file a civil action for declaratory relief, the amount of legal services cannot be estimated in advance. The CDE and DOL will seek resources via the annual budget process, which may necessitate emergency supplemental funding, depending on the timing of any legal action.

The bill also increases workload and expenses for the trial courts in the Judicial Department to hear additional cases. The timing and number of cases is unknown; however, the impact on the trial courts is expected to be minimal.

School District

To the extent that a school district avails themselves of the opportunity to seek judicial review or to file a civil action regarding any rule, regulation, or final order by the SBE, workload and legal services costs to the school district will increase.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to actions of the State Board of Education taken on or after July 1, 2021.

State and Local Government Contacts

Education Judicial Law